

BOARD OF ZONING APPEALS

MINUTES

6:30 PM

March 16, 2016

City Council Chambers

MEMBERS PRESENT: Bill Burton, George Papandreas, Jim Shaffer, and Linda Herbst

MEMBERS ABSENT: None.

STAFF: John Whitmore, AICP

I. **ELECTIONS OF LEADERSHIP** (Leanne Cardoso resignation):

Papandreas moved to nominate Bill Burton as Chair of the Board of Zoning Appeals; seconded by Herbst. Motion carried unanimously.

Papandreas moved to nominate Shaffer as Vice-Chair. Shaffer respectfully declined. The motion died for a lack of a second. Burton noted the matter would be taken up with the vacancy was filled by City Council.

II. **CALL TO ORDER AND ROLL CALL:** Burton called the meeting to order at 6:30 p.m. and read the standard explanation of the how the Board conducts business and rules for public comments.

III. **MATTERS OF BUSINESS:**

- A. **Minutes for the January 20, 2016 hearing:** Minutes for the January 20, 2016 hearing were postponed due to a lack of quorum present at the January 20 meeting.
- B. **Minutes for the February 15, 2016 special meeting:** Burton announced that he viewed the video record and the draft minutes of the February 15 meeting and was prepared to participate in the approval even though he was absent from that hearing. Papandreas moved to approve the minutes for the February 15 meeting as presented; seconded by Herbst. Motion carried 3-0, with Shaffer abstaining due to his absence.
- C. **Minutes for the February 17, 2016 hearing:** Papandreas moved to approve the minutes for the February 17 meeting as presented; seconded by Shaffer. Motion carried 3-0, with Burton abstaining due to his absence.

IV. **UNFINISHED BUSINESS:** None.

V. NEW BUSINESS:

- A. **V16-09 / Strader / 633 Madison Avenue**: Request by Bonnie Strader, for variance relief from Article 1335.04 concerning a setback encroachment at 633 Madigan Avenue; Tax Map 40, Parcels 318 and 318.2; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report.

Burton recognized Steve Strader. Mr. Strader defined the use of the proposed garage addition. The project would provide off-street parking safer than the current Madison Avenue access.

Herbst and Papandreas asked about the location of the house on the property, and provided the Board with information related to the existing improvements, recently demolished improvements, and the proposed project.

There being no additional comments or questions by the Board, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being no further comments, Burton declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-09 as presented; seconded by Herbst. Motion carried unanimously.

NOTE: The following Findings of Fact were included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The garage addition does not change traffic turning area in the vicinity. The addition and driveway will not block the neighbors' driveways, and will allow safer travel to Mildred Avenue. The Addition will have 20' x 20' parking, plus off-street parking. Addition is on level ground, so line of sight is not impaired by the construction of this addition. The home's siding and windows will be upgraded creating a better visual appearance to properties near us, increasing property values.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The present driveway entrance on Madison Avenue is dangerous. The addition and new driveway is the safest location for onsite parking.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The addition and driveway will allow safer access to and from the property. The addition will not decrease property values and will not impact the views of near-by properties.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Off-Street parking in the R-1A zoning district is at a premium. Newly created off-street parking will enable better use of the property in keeping with the R-1A zoning district.

Papandreas moved to approve V16-09 as requested without conditions; seconded by Shaffer. Motion carried unanimously.

Burton reminded Mr. Strader that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

B. V16-10 / Rising Sun Construction, LLC / 233 South Walnut Street: Request by Chris Bailey of Rising Sun Construction, LLC, on behalf of Kirk and Kathleen Hazen, for variance relief from Article 1335.04 concerning a setback encroachment at 233 South Walnut Street; Tax Map 29, Parcel 430; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report.

Burton recognized Tyler Poling with Rising Sun Construction, on behalf of the Hazens. Mr. Poling described the project and the narrowness of the parcel. The project would add roofing to existing utilized space.

There being no comments or questions by the Board, Burton asked if anyone was present to speak in favor of or in opposition to the petitions.

Kathleen Hazen, the applicant spoke in support of the project, as it fits with the use of the property.

There being no further public comments, Burton declared the public hearing closed and asked for Staff recommendations.

Whitmore read the Staff recommendations.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-10; seconded by Shaffer. Motion carried unanimously.

NOTE: The following Finding of Fact was included in the motion.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The roof line will not affect, interfere, or change the surrounding environment or use of said environment since the roofing will not obstruct any existing features, is to the rear of the home, and will only be utilized as weather protection for the back deck. The existing home and decking are already located past the setback area, and would therefore be unaffactive to existing conditions considering its remote location.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Due to the derelict conditions of their existing entry to their home from their existing deck, an unsafe living situation exists through hazardous construction and insufficient weather protection. The client sought help for this unsafe living situation in the design of the reconstruction of their deck for a code compliant, weather protected outdoor area.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The roofing will deter the unsafe conditions caused by the poor construction, and hardship of the weather/climate over the new decking access to their home, while also eliminating the derelict entry, and providing the only available space for a covered, private outdoor area to the client.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The covered existing decking area, in relation to the existing conditions, will provide a safer living condition for the residents and visitors of the dwelling while also giving equity of their existing addition in relevance of their neighboring areas. Therefore, the variance would create a solution to their existing derelict entry into their residence while greatly reducing the risk of injury to persons on the premises.

Shaffer moved to approve V16-10 as requested without conditions; seconded by Herbst. Motion carried unanimously.

Burton reminded the applicant that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

VI. ANNOUNCEMENTS:

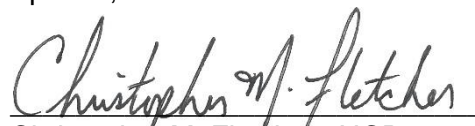
Shaffer noted that the condition of full staff report and application for 633 Madison was confusing and lacking for Board of Zoning Appeals and could have been presented with more adequate information.

VII. ADJOURNMENT: 7:17 PM

MINUTES APPROVED:

April 25, 2016

BOARD SECRETARY:


Christopher M. Fletcher, AICP